

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

JOHN DIAZ,	:	
Plaintiff,	:	
v.	:	CIVIL ACTION
	:	
C.O. MUSKER, et al.,	:	NO. 08-1033
Defendants.	:	
	:	

ORDER

AND NOW, this 10th day of January 2012, upon consideration of Defendants' Motion to Dismiss the Second Amended Complaint (Doc. No. 37), and Plaintiff's response thereto (Doc. No. 38), and for the reasons stated in the Opinion filed this day, it is hereby **ORDERED** that the Motion is **GRANTED**, as follows:

- (1) The following claims are **DISMISSED** for lack of subject-matter jurisdiction:
 - a. All claims against Defendant Department of Corrections;
 - b. Plaintiff's § 1983 claim for money damages against Defendant Mary Canino in her official capacity; and
 - c. Plaintiff's state-law claims against Defendant Canino in her official capacity.
- (2) Plaintiff's due process claims against Defendant Canino are **DISMISSED with prejudice** to the extent Plaintiff seeks to hold her liable for due process violations resulting from Plaintiff's inability to obtain a copy of the inmate handbook, gain access to the law library, or appeal the guilty finding.
- (3) Plaintiff's remaining claims are **DISMISSED without prejudice** for failure to state a claim.

The Clerk of Court is directed to **CLOSE** this case.

It is so **ORDERED**.

BY THE COURT:

/s/ Hon. Cynthia M. Rufe

HON. CYNTHIA M. RUFÉ